

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PREMIER CAPITAL, LLC,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	03-CV-12497-NG
)	
BEVERLY JOHNSON PENZELL, d/b/a)	
Law Office of Kris E. Penzell,)	
and BEVERLY JOHNSON PENZELL, as)	
Personal Representative of the)	
Estate of Kris E. Penzell,)	
)	
Defendants.)	

MOTION OF PLAINTIFF/DEFENDANT-IN-COUNTERCLAIM PREMIER
CAPITAL, LLC TO STRIKE AS UNTIMELY
DEFENDANTS' OPPOSITION TO ITS MOTION TO AMEND

Plaintiff and defendant-in-counterclaim Premier Capital, LLC ("Premier"), by its attorney, moves the Court to strike as untimely-filed defendants' Opposition to Premier's motion to amend its Complaint in this action. As grounds, Premier states:

1. During its October 9, 2007 status conference in this case, the Court established a deadline of October 22, 2007, for the filing of an opposition to Premier's motion to amend (filed on October 9). Defendants belatedly filed their Opposition on October 31, 2007—the same day they filed a Motion For Summary Judgment.

The Court's scheduling framework, quite properly, permitted time to address Premier's motion to amend before

dispositive motions. Now, Premier confronts the prejudice of having to respond to a Rule 56 motion without knowing which pleading (and by extension which contract documents) are at issue. These prejudicial circumstances were entirely avoidable, and in light of them the Court should strike defendants' Opposition and allow Premier's Motion to Amend.

PREMIER CAPITAL, LLC

By its attorney,

/s/ Thomas James Morrissey

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Dated: November 2, 2007